

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

KENNETH BELL, et al.,

§

Plaintiffs,

§

v.

1:20-CV-461-RP

CAL-MAINE FOODS, INC., et al.,

§

Defendants.

§

ORDER

Before the Court is Plaintiff Kenneth Bell’s (“Bell”) Notice of Dismissal, in which he dismisses his claims against Defendant HEB Grocery Co., LP (“HEB”) without prejudice. (Dkt. 90). In his Notice, Bell cites Federal Rule of Civil Procedure 41(a)(1)(A)(i), which allows a plaintiff to voluntarily dismiss an action without a court order by filing a notice of dismissal before the opposing party serves an answer or a motion for summary judgment. (*Id.* at 1). Though Rule 41 speaks of dismissing an “action,” the Fifth Circuit has interpreted it to allow plaintiffs to dismiss all of their claims against individual opposing parties. *See Oswalt v. Scripto, Inc.*, 616 F.2d 191, 194–95 (5th Cir. 1980); *Plains Growers ex rel. Florists’ Mut. Ins. Co. v. Ickes-Braun Glasshouses, Inc.*, 474 F.2d 250, 254–55 (5th Cir. 1973); *see also* 9 Charles A. Wright, et al. *Federal Practice and Procedure* § 2362 (3d ed. Aug. 2019 update).

HEB has not served an answer or a motion for summary judgment. Bell’s notice is therefore “self-effectuating” and “no order or other action of the district court is required.” *In re Amerijet Int’l, Inc.*, 785 F.3d 967, 973 (5th Cir. 2015), *as revised* (May 15, 2015).

Accordingly, **IT IS ORDERED** that the Clerk shall **TERMINATE** HEB as a party in this case.

SIGNED on August 19, 2020.



ROBERT PITMAN
UNITED STATES DISTRICT JUDGE